

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

FILED BY  D.C.

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THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TENN. MEMPHIS**MICHAEL B. BAILEY,****Plaintiff,****v.****SHERIFF MARK LUTTRELL, JR.,
et al.,****Defendants.****NO. 03-2996 MI/An**

ORDER DENYING MOTION TO COMPEL DISCOVERY

Before the Court is Plaintiff's Motion to Compel filed on September 19, 2005. Plaintiff requests that the Court compel Defendants to respond to Plaintiff's discovery requests served on Defendants on June 6, 2005. For the following reasons, Plaintiff's Motion is **DENIED** as moot.

Based upon the Defendants' Response and statements contained in Plaintiff's Motion, it appears that the Plaintiff has served multiple sets of discovery requests on the Defendants and that many of the requests were somewhat confusing and repetitious. The Plaintiff, however, is proceeding in this matter pro se and by his own admission has no legal training.

In his Motion to Compel, the Plaintiff states that he served his latest Request for Production on August 31, 2005, and gave the Defendants until September 12 to respond. When they did not respond by the 12th, Plaintiff prepared and filed his Motion to Compel on September 19, 2005. Under Fed. R. Civ. P. 33(b), however, the Defendants would have thirty (30) days to respond and therefore Defendants' responses were not past due at the time the Plaintiff filed his Motion to Compel.

In addition, the Defendants state in their responses that they supplemented their Response to Request for Production #1 and #7 on September 22, 2005. The Court has reviewed these supplemental responses and they appear to be appropriate. As such, the Court finds that the Plaintiff's Motion to Compel is without merit and should be **DENIED** as moot.

IT IS SO ORDERED.


S. THOMAS ANDERSON
UNITED STATES MAGISTRATE JUDGE

Date: November 10, 2005



Notice of Distribution

This notice confirms a copy of the document docketed as number 41 in case 2:03-CV-02996 was distributed by fax, mail, or direct printing on November 14, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT